

CIVCAL4

PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MC MS00150

CASE NAME: CONSERVATORSHIP OF JAMES J FAHEY

HEARING:

Hearing re: 1ST ACCNT CURRENT & REPORT OF CONSERVATOR

COUNSEL:

ROSE EATON	(PET)...D M DAVIS
JAMES J FAHEY	(CEP)...

GENERAL INFORMATION:

This case is set for hearing on First Account of Conservator
Period: 12-5-03 to 2-1-05

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Need to file notice of hearing and proof of service.
2. Need to file the original bank statement for the close of the accounting period, which is 2-1-05. The bank statement filed is for Dec. 2004.
3. Court needs to address the bond issue. The Conservatorship was granted on the understanding that there was minimal property. However, accounting shows assets of \$65,000, and that conservator would like to liquidate some of the assets to pay for the conservatee's care. Recommend that court order bond of \$50,000 (if not \$65,000) or require that real property only be sold with court approval and that funds be placed in blocked account. Bond is better.
4. Conservator (sister) requesting fees of \$2000 for over 1059 hours of service. A listing of tasks and hours spent over the time has been provided. While this does not specifically comply with Local Rule 1406, it does provide enough information to make a determination of a reasonable fee. Insufficient liquid assets at this time, and so petition asks for order that the money be paid once real property (not residence) is sold.

5. Attorney requesting fees of \$1500 for initial retainer plus \$750. Attorney needs to sign the declaration requesting fees. (Court copy is unsigned) It appears that the conservator advanced her own money for fees for the attorney and not from the estate, which is OK. No attorney shall receive compensation from any Conservatorship estate for legal services performed without the approval of the court. (PC 2645). Attorney requesting \$750 in additional fees. Itemized. OK once the declaration is signed.
6. Conservator requesting reimbursement for board and care costs. Conservatee lives with his sister (conservator) in their jointly owned mobile home. Conservator charging \$375 per month for food, laundry supplies, property taxes and money for clothes. The conservator has no income of his own. Requesting reimbursement for other costs, such as taxes, probate referee and the advanced money for the attorney. OK
7. Proposed Order is being returned for corrections.

RECOMMENDATION:

Need to clear notes 1, 2, & 5(signature) and consider bond issue. Once approved, set next accounting for 3-27-06.

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HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MG MS00028

CASE NAME: G'SHIP OF CHEZERAE BOGAN

HEARING:

Hearing re: PET'N FOR APPOINTMENT OF CO-GUARDIAN

COUNSEL:

JOYCE BOGAN	(PET)...PRO/PER
CHEZERAE BOGAN	(MIN)...
PORSHA BOGAN	(MIN)...
PORSHA R WADE	(PET)...PRO/PER

GENERAL INFORMATION:

This case is set for hearing on Petition for Appointment of Co-Guardian, person only, by sister, minor 12

Continued from 2-14-05 to correct notes. Petitioner appeared by phone.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Chezerae Bogan has been under a guardianship since 1994. The guardian is her maternal grandmother, Joyce Bogan. Joyce Bogan also had guardianship of Porsha Bogan until she reached 18 years. However, it appears that grandmother relinquished the minor back to the mother without court approval. Questions regarding well-being of mother and violence toward the minors.
2. Mother and guardian both signed waiver and consent to the petition for co-guardian.
3. Petitioner Porsha Wade lives in North Carolina. Temporary letters issued on 1-11-05. Minute order notes that child may be taken to North Carolina. If the intention is to have the minor reside in North Carolina, then guardianship in that state is appropriate. Petitioner is also in the military.
4. Petition states that father is unknown. However, the original petition lists the father of Chezerae as Perry Osby. Need to file proof of personal service on father or due diligence declaration.

5. In order to become co-guardians, the letters to Joyce Bogan will have to be vacated/terminated and new ones issued in the name of both parties.
6. Petition unclear. Mentions a brother. Is Chezerae the sister? Is there also a brother? Court should note that there is a petition for guardianship filed for Deavante Jamal Bogan by Porsha Wade, on calendar below (matter no. 3. MG 00392)
7. Need to file proof of personal service on minor, who is over 12 years. Minor could appear in court and waive personal service. Mailed service is not sufficient.

RECOMMENDATION:

Need to resolve questions regarding minor's future residence, nature of petition, and notice.

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HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MG MS00392

CASE NAME: GUARDIANSHIP OF DEAVANTE JAMAL BOGAN

HEARING:

Petition for Appointment of Guardian

COUNSEL:

PORSHA WADE (PET)...PRO/PER
DEAVANTE JAMAL BOGAN (MIN)...

GENERAL INFORMATION:

This case is set for hearing on Petition for Guardianship, person only, by sister, minor 2
Continued from 2-14-05. (see prior matter)

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Temporary letters issued 1-11-05. Minute order notes that minor may be taken to North Carolina. As petitioner lives in North Carolina, shouldn't this matter be handled in that state? If intention is to move children to North Carolina, then guardianship here could be established with OSC re: Filing in North Carolina.
2. Minor has cerebral palsy. Petitioner is 21 and in the military. Question if the petitioner is able to take care of the minor's needs. What is the plan?
3. Mother has signed waiver and consent. Grandmother signed waiver and consent.

RECOMMENDATION:

If the guardian is planning on residing with the minor out of state, will need to seek guardianship in North Carolina. Set OSC re: Filing in North Carolina.

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HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS00105

CASE NAME: IN THE ESTATE OF DEBORAH FAY FOSTER

HEARING:
Accounting Review

COUNSEL:

DENNIS R FOSTER (PET)...DONNASUE SMITH-ORTIZ
DEBORAH FAYE COLLINS (DEC)...
DEBORAH FAY FOSTER (DEC)...

GENERAL INFORMATION:

This case is set for hearing on 7th Status Report
Continued from 1-24-05 at request of attorney

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Need to file proof of service and notice of hearing. Notice must include the required language from PC 12201.
2. Expectation that estate can close in 60 days as real property has been sold.
3. **It has been more than 60 days since this report was filed. Where is the Final Accounting?**

RECOMMENDATION:

Court may wish to consider sanctions for failure to clear notes regarding notice since 11-8-04 and failure to file the final account in a timely manner.

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HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS00572

CASE NAME: IN THE ESTATE OF JOHN BUD MCGARITY

HEARING:
Accounting Review

COUNSEL:
HART PONDER (PET)...D M DAVIS
JOHN BUD MCGARITY (DEC)...

This case is set for hearing on Accounting Review
Court approved the Fourth Accounting on 10-25-04 for the period ending June 30, 2002.
Fifth Accounting due from July 1, 2002 forward.
Continued from 1-24-05

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Not filed yet.
2. Court should note that Attorney Davis has filed a Motion to Withdraw because of the administrator's failure to cooperate. (hearing date 4/11/05)

RECOMMENDATION:

Suspend powers immediately and set OSC re: Removal, Sanctions & Surcharge. Have a citation issued and personally served on Hart Ponder.

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PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR
HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS00906
CASE NAME: ESTATE OF ISAAC J. GITTERMAN

HEARING:

OSC re: Appt of Successor Representative & Filing of Bond

COUNSEL:

MAXIMILLIAN A. GITTERMAN (PET)...PRO/PER
ISAAC J. GITTERMAN (DEC)...
BRIAN MCCORMICK, PUBLIC GUARDI(AGN)...PRO/PER
LISA GITTERMAN (TP)...PRO/PER
JULIE GITTERMAN (PRO/PER)...PRO/PER

GENERAL INFORMATION:

This case is set for hearing on OSC re: Successor Administrator of Estate
On 5-3-04, at OSC re: Removal, court removed Maximillian Gitterman and imposed \$5000
in sanctions to be paid by 7-19-04. No appearance at hearing. OSSC set. Notice
personally served on Maximillian Gitterman on 5-27-04.

**Continued last from 12-12-04. Attorney Johnson ("referee") requested continuance.
Parties were preparing accounting. Nothing new filed.**

Prior History:

5-19-03: ordered again to file accounting (NEVER FILED) *original order 8-26-02
7-7-03: \$1000 sanction against Maximillian Gitterman and relieved
8-6-03: declaration filed re: inability to appear on 7-7-03
8-8-03: court vacated prior order
10-20-03: M.G. sanctioned again, \$1000
1-12-04: sanctions vacated

On 7-19-04, Maximillian Gitterman present. Court appointed Greg Johson as referee and
court continued matter for counsel to meet and confer with petitioner.

On 10-4-04, parties appeared at hearing and requested continuance. Nothing new filed.

RECOMMENDATION:

Find out status.

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HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS01020

CASE NAME: ESTATE OF JOSEPHINE MARIE HUFFER

HEARING:

OSC re: Final Accounting

COUNSEL:

KEVIN HUFFER (PET)...MELVIN J KREGER
HELEN MAZZA (PET)...MELVIN J KREGER
JOSEPHINE MARIE HUFFER (DEC)...

This case is set for hearing on Final Account

Continued from 2-14-05. No appearance. Clerk mailed minutes to attorney.

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

Not filed. Real property sale approved by court in August 2004.

RECOMMENDATION:

If no appearance again, Suspend administrator. Set OSC re: Removal, Sanctions & Surcharge. Issue citation and have it personally served.

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PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS01176

CASE NAME: ESTATE OF TERRENCE DAVID BUNTEN

HEARING:
OSC re: Review

COUNSEL:
DAVID A MEYERS (PET)...PRO/PER
TERRENCE DAVID BUNTEN (DEC)...

GENERAL INFORMATION:
This case is set for hearing on I & A review
Continued several times

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. The I & A was filed on 12-27-04. Still need to file the bank statements, per the local rules.

RECOMMENDATION:
Need bank statements.

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PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS01233

CASE NAME: ESTATE OF MARY MARGARET MOLLOY

HEARING:

Hearing re: PET'N FOR FINAL DISTRIBUTION & COMPENSATION

COUNSEL:

JEANNE RENEE SCHNEIDER (PET)...GIBBONS & CONLEY
MARY MARGARET MOLLOY (DEC)...

GENERAL INFORMATION:

This case is set for hearing on Waiver/Final Report

1. Petitioner incorrectly states that no creditors were located. Court file indicates creditor and rejection. The petition later provides this information regarding the claim by Bank of America. The claim for \$20,841.51 was rejected on 1-14-05 and so asking to reserve the amount of the claim in case of contest. Is this final report then premature? File verified supplement.
2. There are two intestate heirs – Jeanne Schneider and John Schneider. John Schneider has **disclaimed** his interest. Need more information regarding the heirs of John Schneider to approve final distribution solely to Jeanne. Does he have any children or a spouse who would be his heirs? It appears that he does have a living parent, who might take. Need verified supplement.
3. No request for statutory commission by administrator. OK
4. Attorney requesting statutory fee of \$5854. OK Also requesting costs of \$493.04. OK

RECOMMENDATION:

Need verified supplement. Once approved, set hearing for filing of receipts and final discharge for 3-27-06.

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PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS01329

CASE NAME: ESTATE OF EMO BINOTTI

HEARING:

Spousal Property Petition hearing.

COUNSEL:

MAUREEN SATCHELL (PET)...LAW OFFICES OF ANNA M. CHAPUT
EMO BINOTTI (DEC)...

GENERAL INFORMATION:

This case is set for hearing on Spousal Property Petition

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Need explanation as to why petitioner has not personally signed and it was signed by "attorney in fact". Also need to file proof of status/copy of designation.
2. Need to provide notice to petitioner and not just to her "attorney in fact".
3. The Spousal Property Petition Form has been revised. Need to file on new Judicial Council Form, revised January 2005. Also, order has also been revised.

RECOMMENDATION:

Need supplement.

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PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS01332

CASE NAME: ESTATE OF JAMES T. BROCKMAN II

HEARING:

Petition for Probate, Letters of Tstmnty with full authority
under IAEA.

COUNSEL:

SCOTT R PASBY (PET)...PERRY
JAMES T BROCKMAN II (DEC)...

GENERAL INFORMATION:

This case is set for hearing on Petition for Probate of Will, with full authority

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Need to file proof of due publication.
2. Need to file proof of service and Notice of Petition to Administer Estate.
3. Will waives bond.

RECOMMENDATION:

RFA subject to 1-2. Once approved, set hearing for filing of Inventory & Appraisal for 9-26-05. Set hearing for filing of accounting and/or status report for 5-22-06. Accountings to be filed 30 days in advance. Note local rules regarding the filing of bank statements.

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PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR
HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS01333
CASE NAME: ESTATE OF BARBARA ANN JOHNSON

HEARING:

Petition for Probate, Letters of Tstmnty with full authority
under IAEA.

COUNSEL:

DAVID DEAN ADAMS (PET)...D M DAVIS
BARBARA ANN JOHNSON (DEC)...

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Need to know status of Floyd Wayne Johnson. Is he alive? If so, he needs notice. Also, if he is alive, then will need declination of nomination to be executor. Petition indicates no predeceased spouse, so is he ex-spouse? Will specifically leaves all property to Mr. Johnson even in the event of divorce.
2. Will names as alternate co-executors David Dean Adams (petitioner) and Tony Johnson. Will did not nominate David Adams to be sole executor. Need declination of Tony Johnson if he does not wish to act as co-executor. If court approves Mr. Adams as sole personal representative, then Letters & Order need to be changed to reflect his correct status as "Administrator with Will Annexed". Need to correct petition at Box 4f.
3. As Will only waives bond as to the executors nominated, David Dean Adams will need to post bond (unless all heirs waive bond). Bond should be for \$180,000.
4. Need to file proof of due publication.
5. Petitioner needs to complete Box 4g regarding residence in U.S.
6. Petitioner needs to complete Box 5.
7. Need to complete Box 6a3 or 6a4 re: registered domestic partner.

RECOMMENDATION:

Need to clear notes. Once approved, set hearing for filing of Inventory & Appraisal for 9-26-05. Set hearing for filing of accounting and/or status report for 5-22-06. Accountings to be filed 30 days in advance. Note local rules regarding the filing of bank statements.

CIVCAL4

PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS01335

CASE NAME: ESTATE OF CLAIR I. ASHBY

HEARING:

Petition for Probate, Letters of Tstmntry with full authority
under IAEA.

COUNSEL:

THEODORE H ASHBY (PET)...PATRICK A. LIDDELL
CLAIR I ASHBY (DEC)...

GENERAL INFORMATION:

This case is set for hearing on Petition for Probate of Will, with full powers

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Need to file proof of due publication.
2. Need to file proof of service and Notice of Petition to Administer Estate.
3. Will waives bond.

RECOMMENDATION:

RFA subject to 1-2. Once approved, set hearing for filing of Inventory & Appraisal for 9-26-05. Set hearing for filing of accounting and/or status report for 5-22-06. Accountings to be filed 30 days in advance. Note local rules regarding the filing of bank statements.

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PROBATE/GUARDIANSHIP/CONSERVATORSHIP CALENDAR

HONORABLE JUDGE JAMES C MCGUIRE

DATE: 03/28/05 TIME: 8:30 DEPT: MPR

CASE #: MPRMS01336

CASE NAME: ESTATE OF DORIS MAE WILBUR

HEARING:

Petition for Probate, Letters of Tstmnty with full authority
under IAEA.

COUNSEL:

MARY HELEN TUTTLE (PET)...IGNAZIO
DORIS MAE WILBUR (DEC)...

GENERAL INFORMATION:

This case is set for hearing on Petition for Probate of Will, with full authority

THE FOLLOWING ISSUES AND/OR DEFICIENCIES IN THE PAPERS ARE NOTED:

1. Need to file proof of due publication.
2. Will waives bond.
3. Need to file Petition for Probate on New Judicial Council Form (Revised January 2005). Cannot use out-dated form. (Proposed Order/Letters OK, as those were not revised in 2005.)

RECOMMENDATION:

RFA subject to clearing notes. Once approved, set hearing for filing of Inventory & Appraisal for 9-26-05. Set hearing for filing of accounting and/or status report for 5-22-06. Accountings to be filed 30 days in advance. Note local rules regarding the filing of bank statements.